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EXAMINER

ELHILO, EISA B

ART UNIT

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1796

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Satou (US' 195) as a primary reference clearly teaches a non-dustable granular dye composition comprising direct dyes (see col. 1, lines 62-65) in a binder (carrier) material of hydroxypropylcellulose and coating agents of polyvinyl pyrrolidone and oligosaccharides (natural film-formers) as claimed (see page 2, lines 12-64). Satou et al. (US' 195) clearly teaches that a coated non-dustable granular dye composition comprising any kind of dyes (see col. 1, lines 60-65). Toumi et al. US' 077 A1) as a secondary reference teaches an encapsulation of water-soluble cosmetic composition comprising direct dyes and oxidation dye precursors (base and couplers) (see page 5, Example 1 and 2 and page 6, paragraph, 0113). Therefore, there is a clear suggestion and sufficient motivation to one having ordinary skill in the art to formulate such a composition by incorporating the oxidation dyes as taught by Toumi et al. in the dyeing composition of Satou to arrive at the claimed invention and would expect such a composition to have similar properties to those claimed.

With respect to applicant's argument that Satou does not teach or disclose oxidation dye precursors because these dyes are sensitive to the presence of a chemical oxidant or air especially at the high temperatures disclosed by Satou for drying the particulate in column 2, the examiner would like to point out that Satou et al. never mentioned such a statement in its disclosure and applicants have not shown on record the sensitivity of oxidation dyes in presence of oxidant chemicals at high temperatures.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the temperature for operating the granulating machine and for drying the particulate much lower) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner proposed that claims 14, 15 and 21 to be cancelled and a showing or data should be presented to demonstrate that the claimed invention provides unexpected results over the composition of the closest prior art that comprises direct dyes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eisa B Elhilo/
Primary Examiner, Art Unit 1796
March 17, 2008